

DEPARTMENT OF THE ARMY PERMIT

Permittee: Florida Department of Transportation - District One

Permit No: SAJ-2007-6683 (IP-JPF)

Issuing Office: U.S. Army Engineer District, Jacksonville

NOTE: The term "you" and its derivatives, as used in this permit, mean the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the U.S. Army Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The applicant proposes to permanently impact approximately 0.46 acre of surface waters and 5.01 acres of wetlands to construct two additional travel lanes along an approximately 5-mile section of I-75, with attendant stormwater management facilities. The applicant states that the project design reflects all practicable measures for avoidance and minimization of impacts, including for the siting of the stormwater management system. As mitigation for the project impacts, the applicant proposes to purchase credits at an appropriate mitigation bank. The project is referenced by FDOT as FPID Number 420655-1-52-01, and as Segments D & E.

Geographic Position (Center Point of Project):

Latitude 26.576052
Longitude -81.796591

Project Location: The project site involves proposed impacts to Six Mile Cypress Slough and unnamed waters of the United States located along I-75 from south of Daniels Parkway to south of Colonial Boulevard, in Section 34, Township 44 South, and Range 25 East, and Sections 3, 10, 15, and 22, Township 45 South, Range 25 East, in Lee County, Florida. The project is within the Estero Bay watershed.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on June 23, 2013. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to

maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature and mailing address of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. **Reporting Address:** All reports, documentation and correspondence required by the conditions of this permit shall be submitted to the following address: **U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232**. The Permittee shall reference this permit number, SAJ-2007-4508 (IP - JPF), on all submittals.

2. **Commencement Notification:** Within 10 days from the date of initiating the authorized work, the Permittee shall provide to the Corps a written notification of the date of commencement of work authorized by this permit.

3. **As-Builts:** Within 60 days of completion of the authorized work or at the expiration of the construction window of this permit, whichever occurs first, the Permittee shall submit as-built drawings of the authorized work and a completed As-Built Certification Form to the Corps. The drawings shall be signed and sealed by a registered professional engineer and include the following:

a. A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings (8½-inch by 11-inch). The drawing should show all "earth disturbance," including wetland impacts, water management structures, and any on-site mitigation areas.

b. List any deviations between the work authorized by this permit and the work as constructed. In the event that the completed work deviates, in any manner, from the authorized work, describe on the As-Built Certification Form the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed. Please note that the depiction and/or description of any deviations on the drawings and/or As-Built Certification Form does not constitute approval of any deviations by the U.S. Army Corps of Engineers.

c. The Department of the Army Permit number.

d. Include pre- and post-construction aerial photographs of the project site, if available.

4. **Erosion Control:** Prior to the initiation of any work authorized by this permit, the Permittee shall install erosion control measures along the perimeter of all work areas to prevent the displacement of fill material. Immediately after completion of the final grading of the land surface, all slopes, land surfaces, and filled areas adjacent to wetlands shall be stabilized using sod, degradable mats, or a combination of similar stabilizing materials to prevent erosion. The erosion control measures shall remain in place and be maintained until all authorized work has been completed and the site has been stabilized.

5. **Eastern Indigo Snakes:** The permittee agrees to implement the attached 'Standard Protection Measures for the Eastern Indigo Snake' (as revised July 27, 1999) to minimize the potential for impacts to the eastern indigo snake.

6. **Mitigation Credit Purchase:** Within 30 days from the date of initiating the authorized work or 12 months from the effective date of this permit, whichever first occurs, the Permittee shall provide verification to the Corps that 2.34 credits (1.95 forested, 0.39 herbaceous) federal mitigation bank credits have been purchased from the Big Cypress Mitigation Bank (SAJ-1997-6400). The required verification shall reference this project's permit number (SAJ-2007-6683).

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

☐ Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

☒ Section 404 of the Clean Water Act (33 U.S.C. 1344).

☐ Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, State, and local authorization required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal projects.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.


5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.



(PERMITTEE) 06/24/08

(DATE)
District Permit ENGINEER

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.



(DISTRICT ENGINEER) 6/24/08

(DATE)
Paul L. Grosskruger
Colonel, U.S. Army

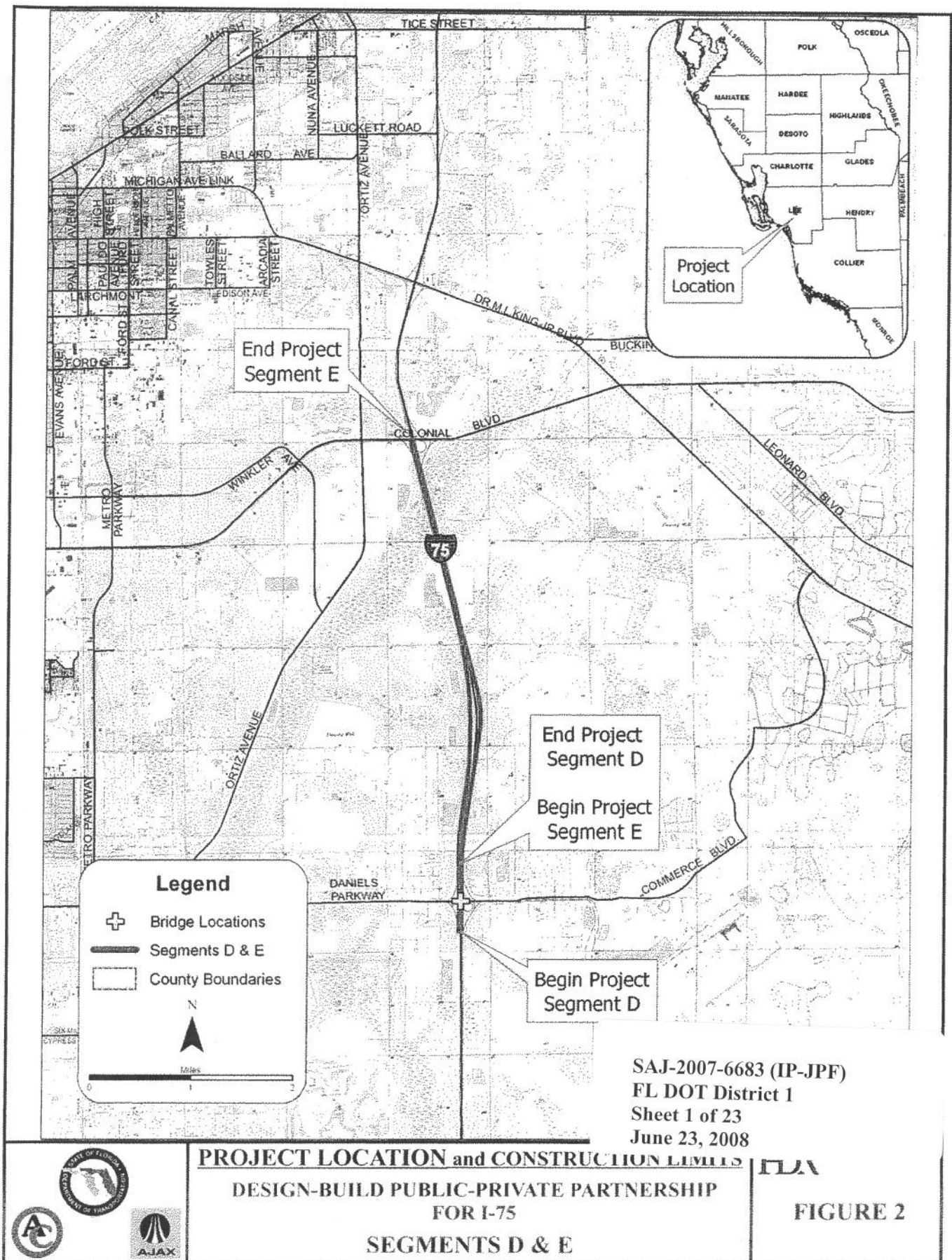
When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

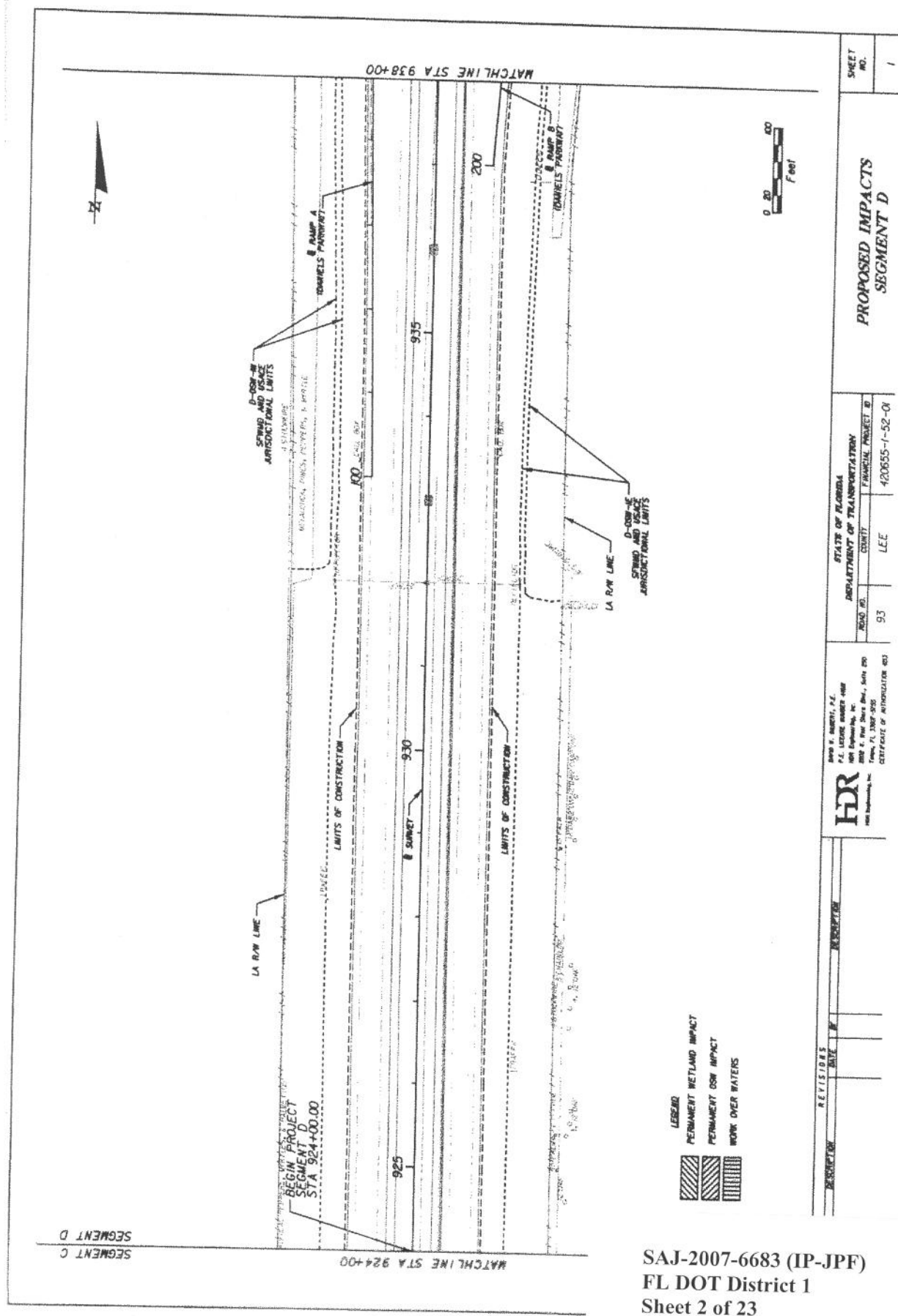
(TRANSFEREE - SIGNATURE) (DATE)

(NAME-PRINTED)

(ADDRESS)

(CITY, STATE, AND ZIP CODE)





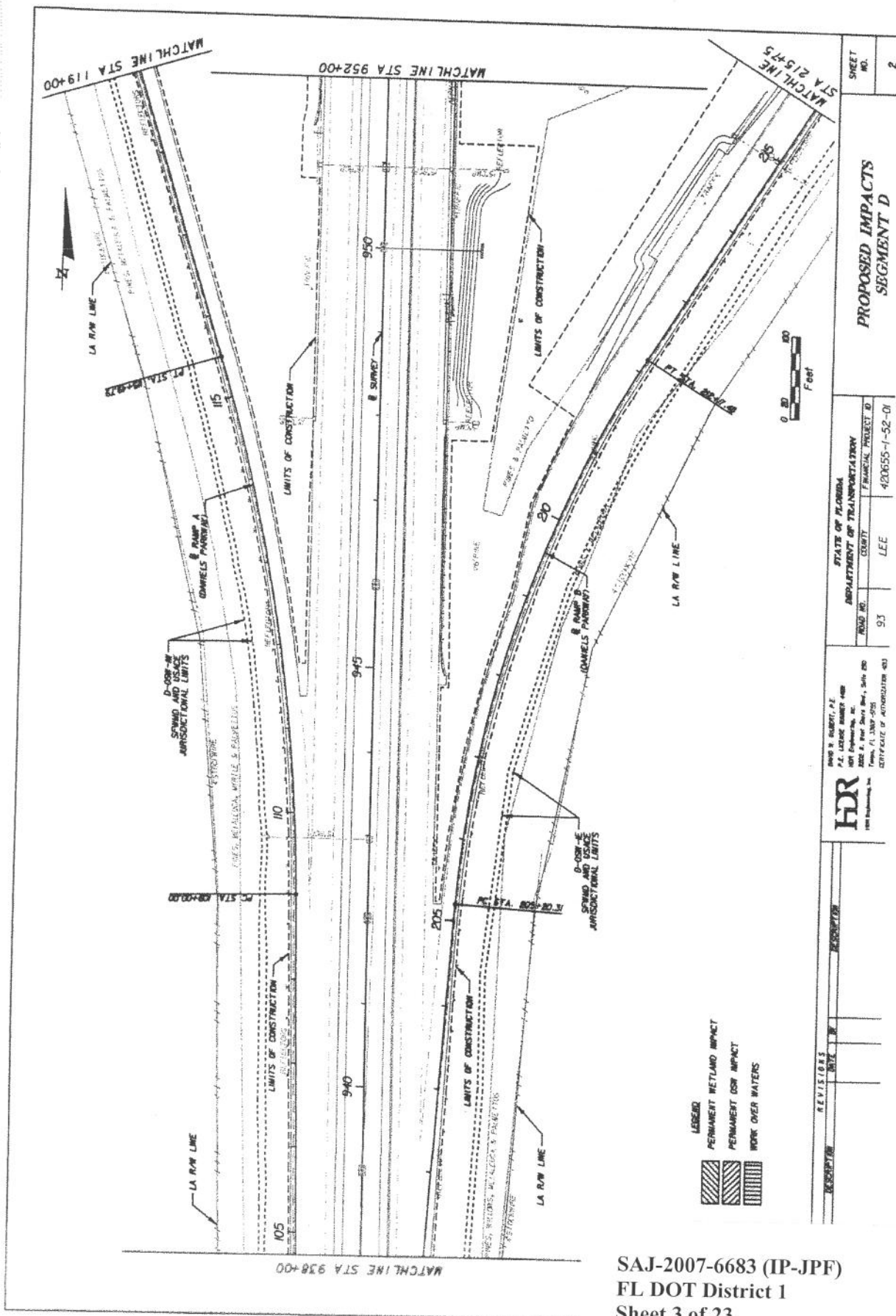
SHEET NO. 1

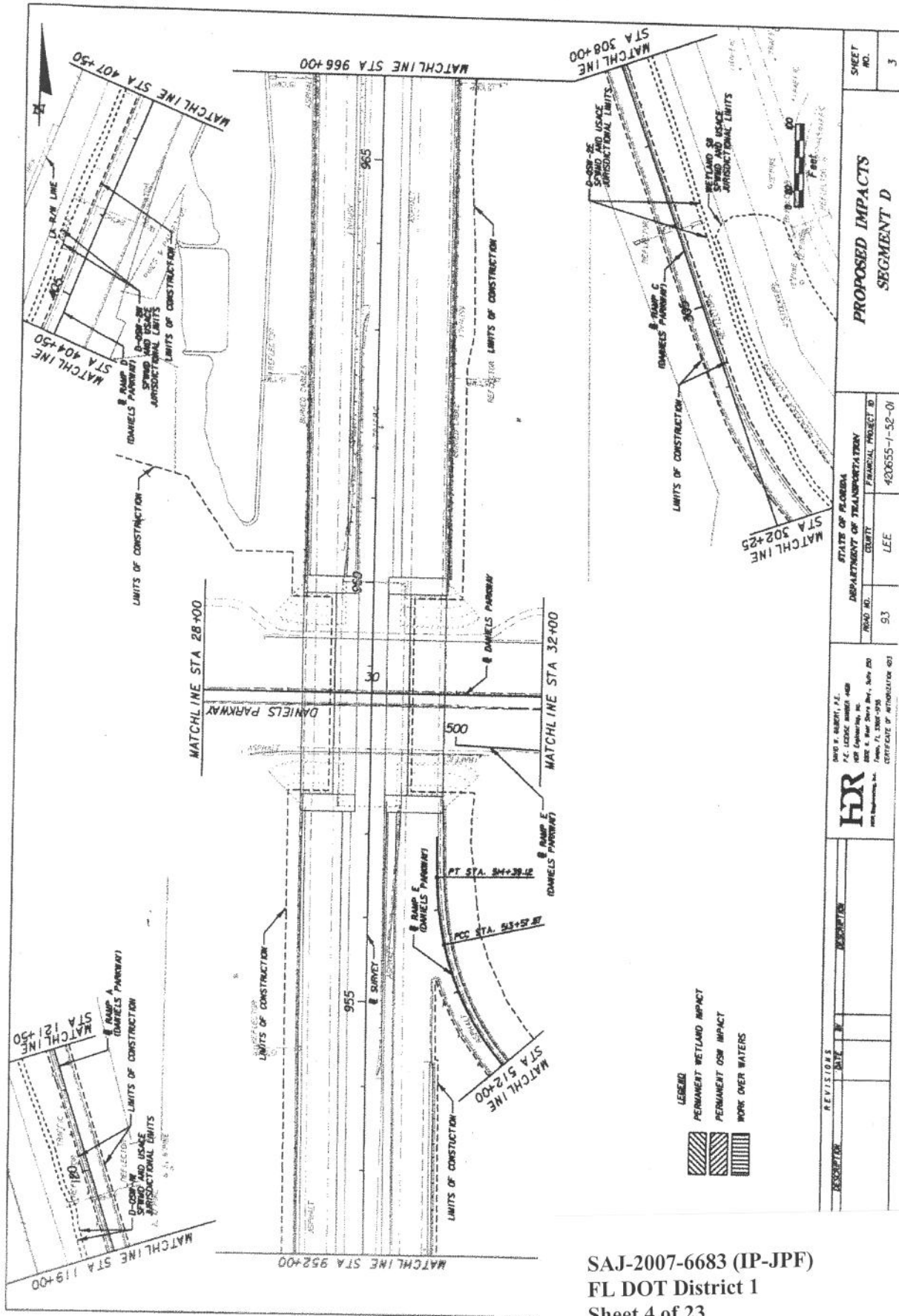
PROPOSED IMPACTS SEGMENT D

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION	
ROAD NO. 93	COUNTY LEE
PROJECT NO. 420655-1-52-01	

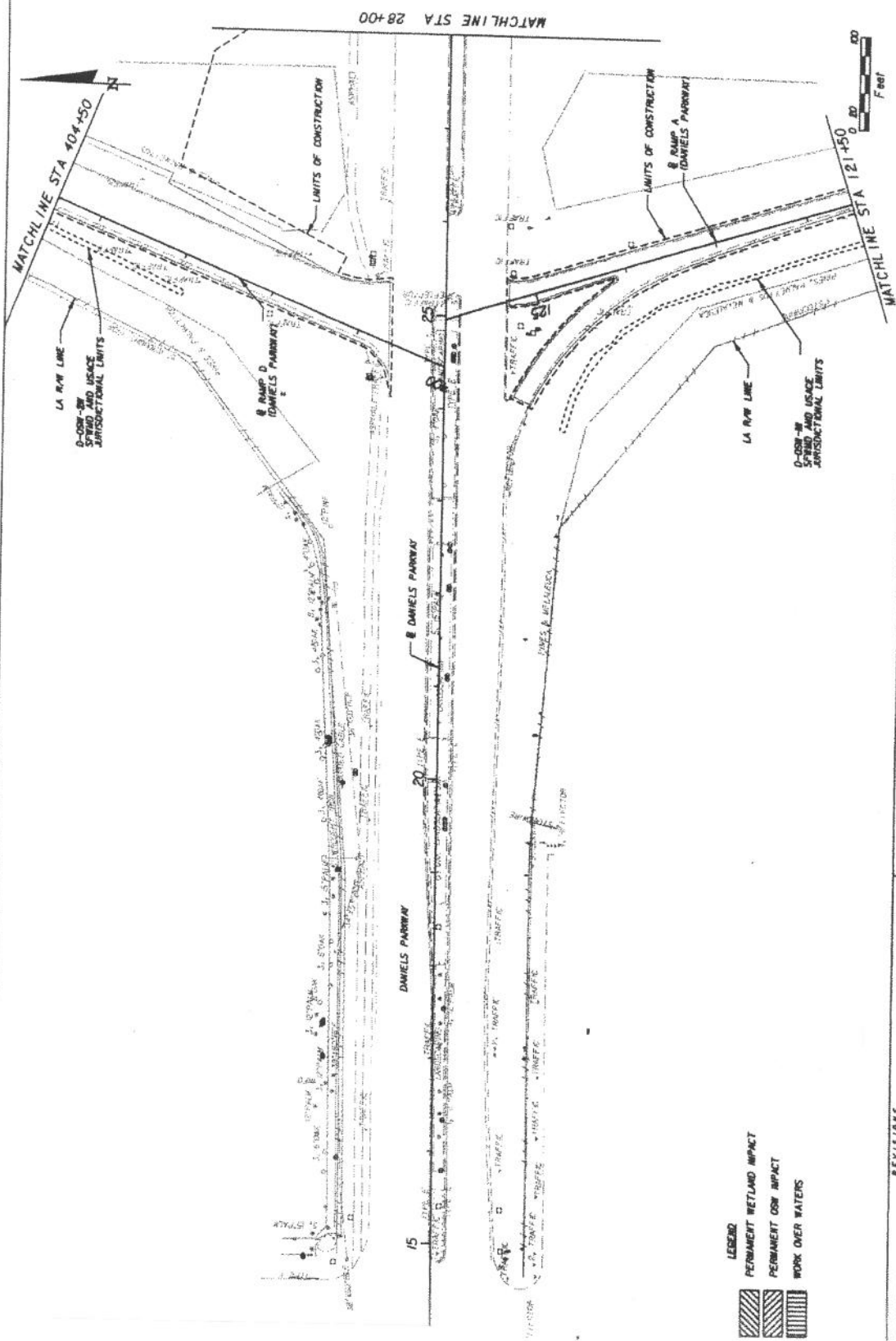
REVISIONS	DATE	BY	DESCRIPTION

SAJ-2007-6683 (IP-JPF)
FL DOT District 1
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June 23, 2008





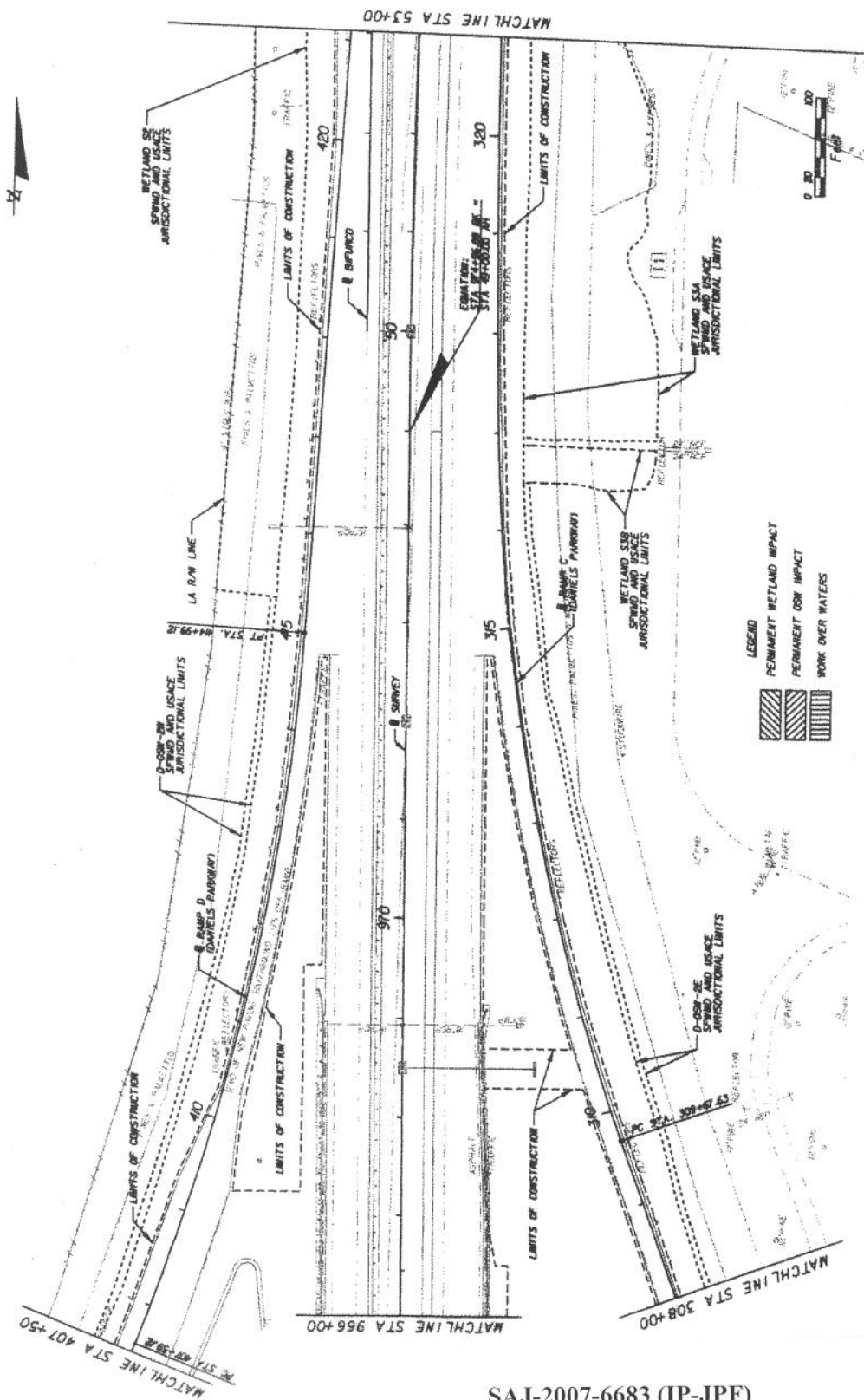
SAJ-2007-6683 (IP-JPF)
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- LEGEND**
- PERMANENT WETLAND IMPACT
 - PERMANENT CGM IMPACT
 - WORK OVER WATERS

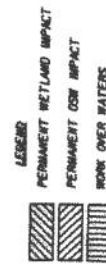
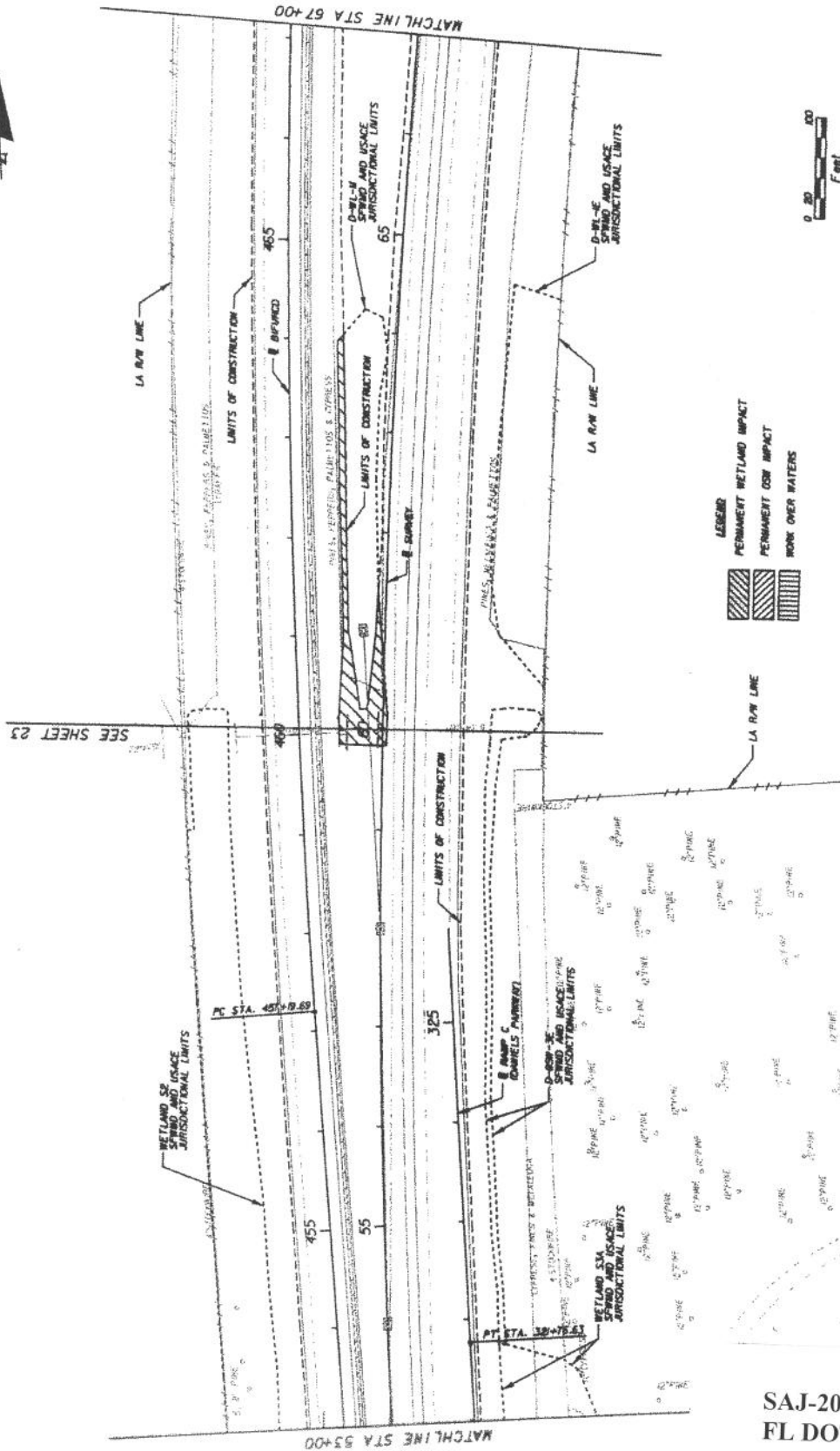
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION FRANKLIN PROJECT ID: 420655-1-SG-01		SHEET NO. 4	
		PROPOSED IMPACTS SEGMENT D	
HR <small>HUNT ENGINEERING, INC.</small> <small>1000 E. 1st Street, Suite 200</small> <small>Fort Lauderdale, FL 33301</small> <small>TEL: 954.575.1100</small> <small>FAX: 954.575.1101</small> <small>WWW.HR-ENGINEERING.COM</small>		ROAD NO. 93	COUNTY LEE
PROJECT NO. 420655-1-SG-01			
DATE: 06/23/08			
REVISIONS			
NO.	DATE	BY	DESCRIPTION

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STATE OF FLORIDA		DEPARTMENT OF TRANSPORTATION		PROJECT NO.		PROJECT NAME		SHEET NO.	
COUNTY		ROAD NO.		93		LEE		6	
PROJECT NO.		PROJECT NAME		420655-1-52-01		PROPOSED IMPACTS		SEGMENT D	
PROJECT NO.		PROJECT NAME		420655-1-52-01		PROPOSED IMPACTS		SEGMENT D	
PROJECT NO.		PROJECT NAME		420655-1-52-01		PROPOSED IMPACTS		SEGMENT D	

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NO.	DATE	DESCRIPTION

HR
Hatch, Ross & Roberts, P.A.
P.E. License Number 4080
DOT Engineering, Inc.
2000 S. Pine Street, Suite 200
Tampa, FL 33606-5900
Certificate of Registration 003

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION
ROAD NO. 93
COUNTY LEE
FINANCIAL PROJECT ID 420655-1-52-01

**PROPOSED IMPACTS
SEGMENT D**

SHEET NO. 7

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REVISION	REVISOR	DATE	DESCRIPTION

HR
Harris Engineering, Inc.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
93	LEE	420655-1-52-Q1

PROPOSED IMPACTS SEGMENT D

SHEET NO. 8

SEGMENT D
SEGMENT E

MATCHLINE STA 80+50

MATCHLINE STA 94+00

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ARISDOCTIONAL LIMITS

LEGEND
PERMANENT WETLAND IMPACT
PERMANENT OSW IMPACT
WORK OVER WATERS

0 50 100
Feet

REVISIONS	DATE	DESCRIPTION

HDR
Hatch, Douglas & Associates, Inc.
10000 E. Bay Street, Suite 200
Miami, FL 33131-3935
TELEPHONE: 305.571.1000
FAX: 305.571.1001
WWW.HDR.COM

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION
ROAD NO. 93
COUNTY LEE
PROJECT NO. 420655-1-52-01

PROPOSED IMPACTS
SEGMENT D/E

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9

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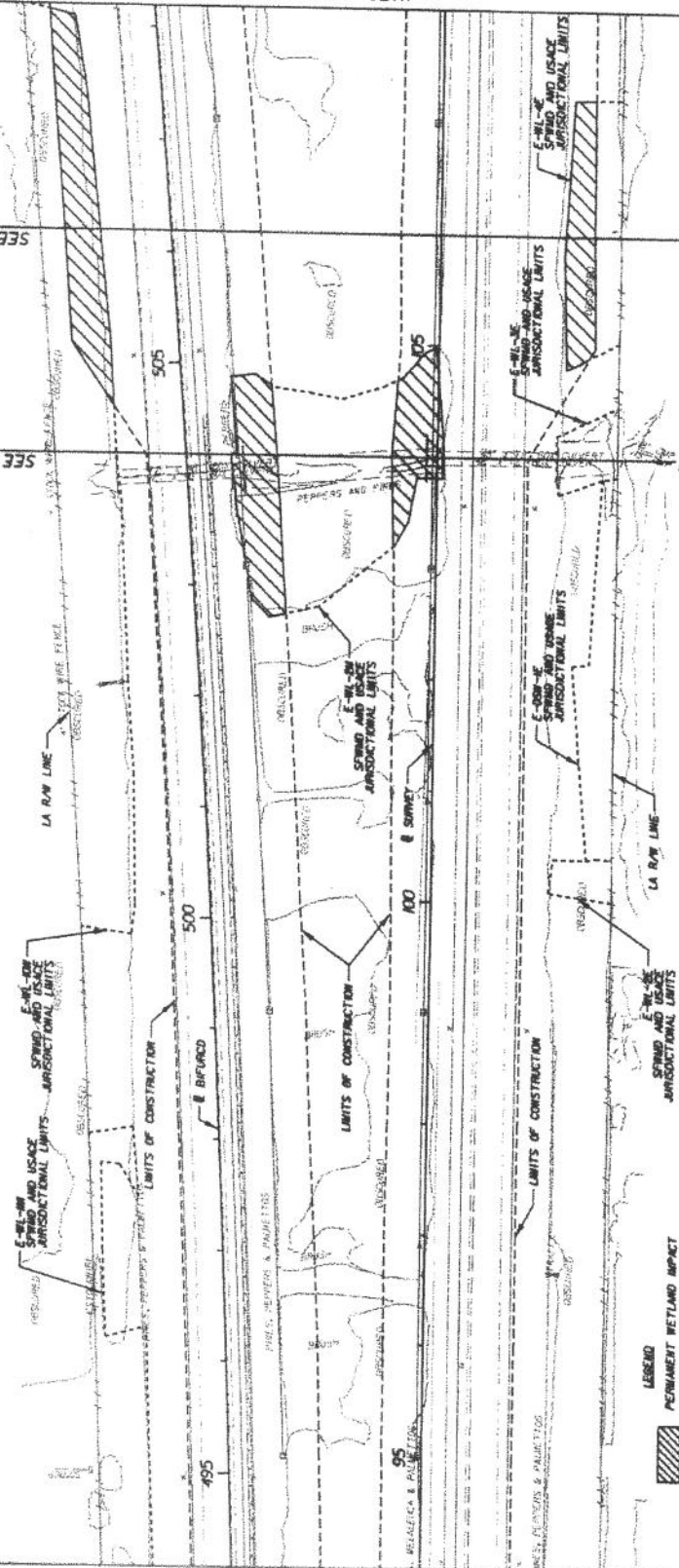


SEE SHEET 24

SEE SHEET 24

MATCHLINE STA 108+00

MATCHLINE STA 94+00



SHEET NO.

10

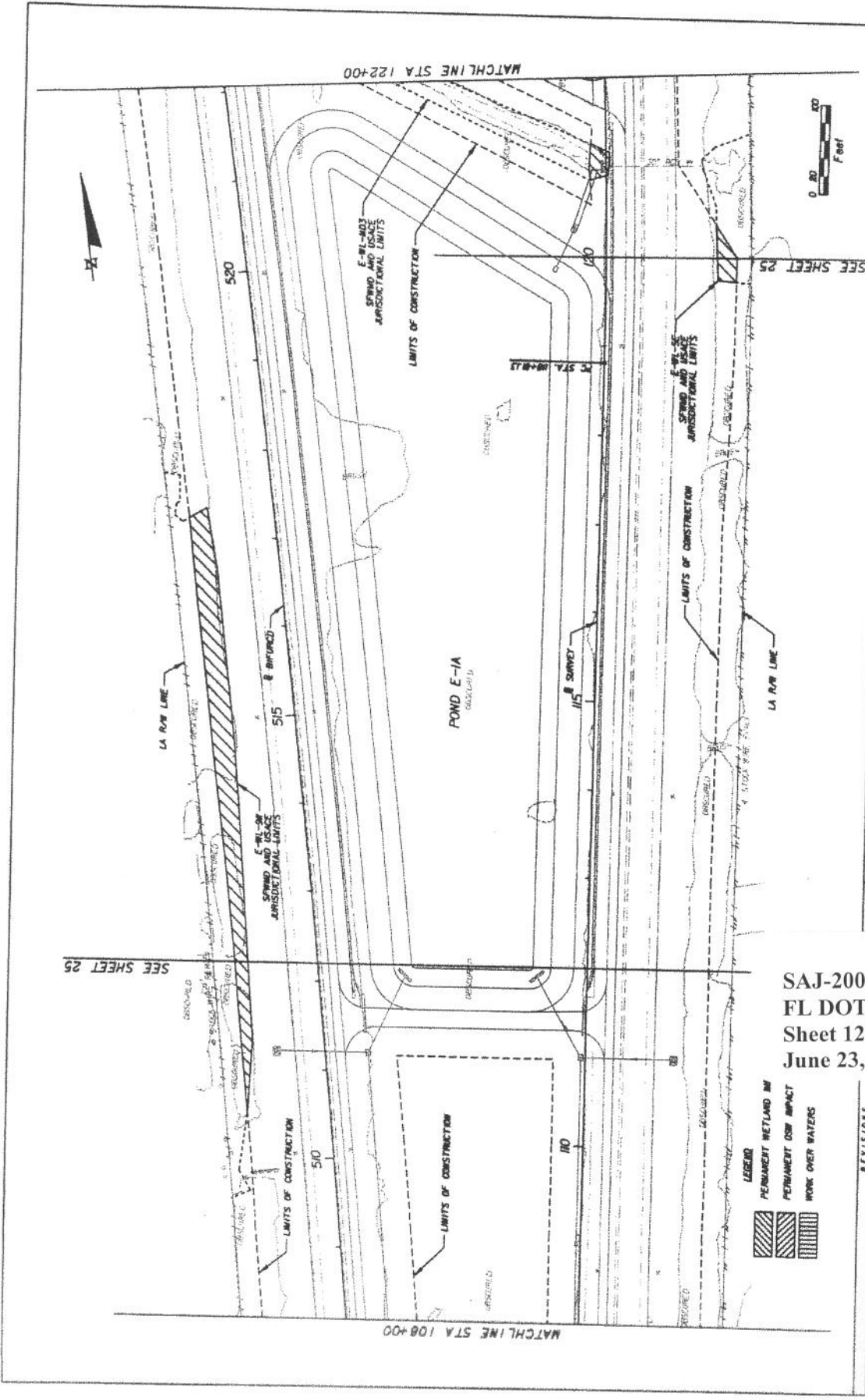
PROPOSED IMPACTS SEGMENT E

STATE OF FLORIDA	
DEPARTMENT OF TRANSPORTATION	
ROAD NO.	93
COUNTY	LEE
PROJECT #	420655-1-52-01

HR
HARRIS & SONS, INC.
P.E. LARRY HARRIS
2001 E. First Street, Suite 200
Tampa, FL 33602-9755
CERTIFICATE OF AUTHORIZATION #023

REVISIONS	DATE	DESCRIPTION

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HR
Hatch, Ross & Associates, Inc.
1000 Highway 100
Suite 200
Ft. Lauderdale, FL 33304
Phone: (754) 330-0700
FAX: (754) 330-0701
P.E. License Number: 4400
Professional Engineer
State of Florida

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION
ROAD NO. 93
COUNTY LEE
PROJECT NO. 420655-1-52-01

**PROPOSED IMPACTS
SEGMENT E**

SHEET NO. 12

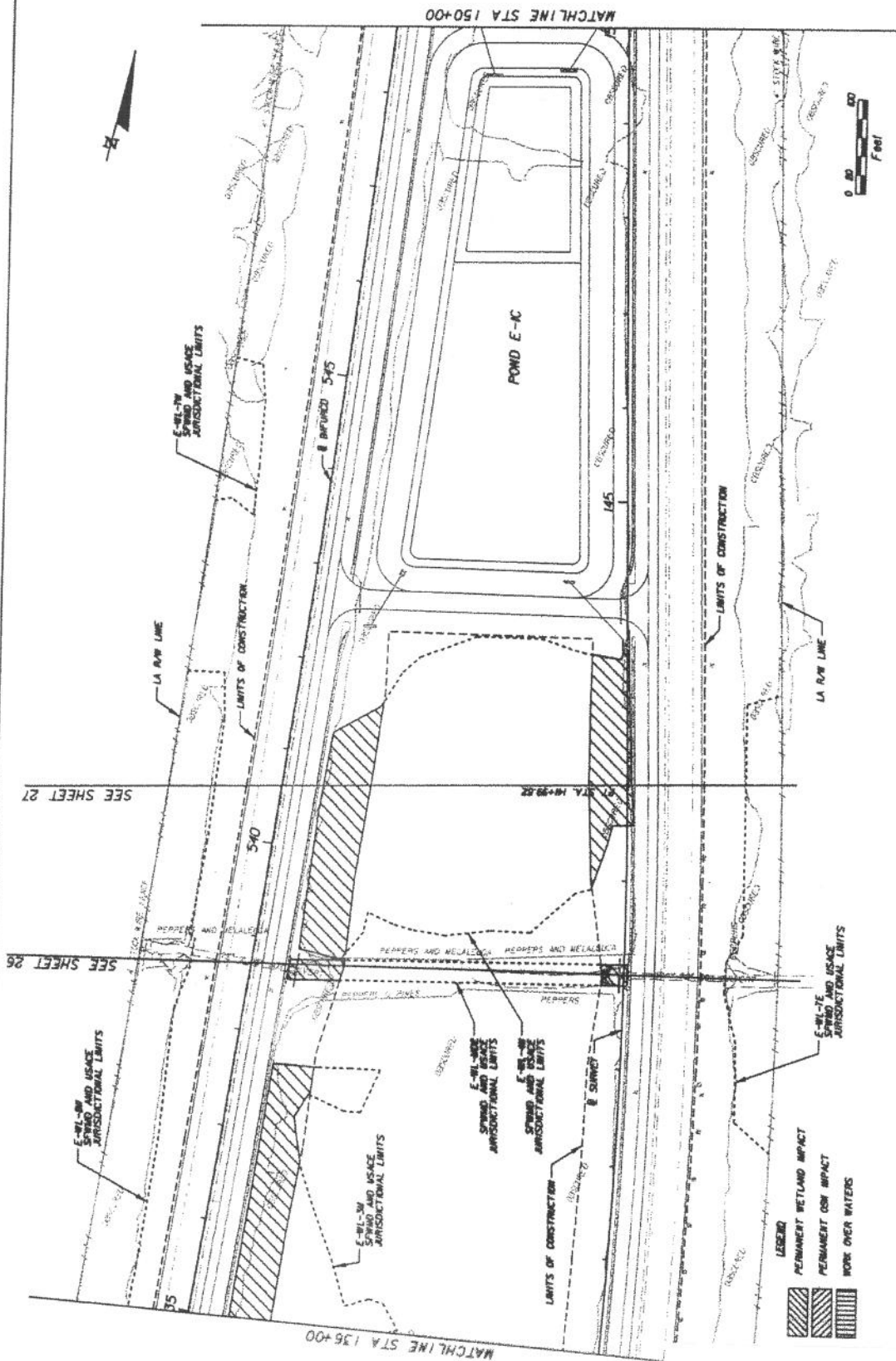
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DATE	BY	DESCRIPTION	REVISIONS

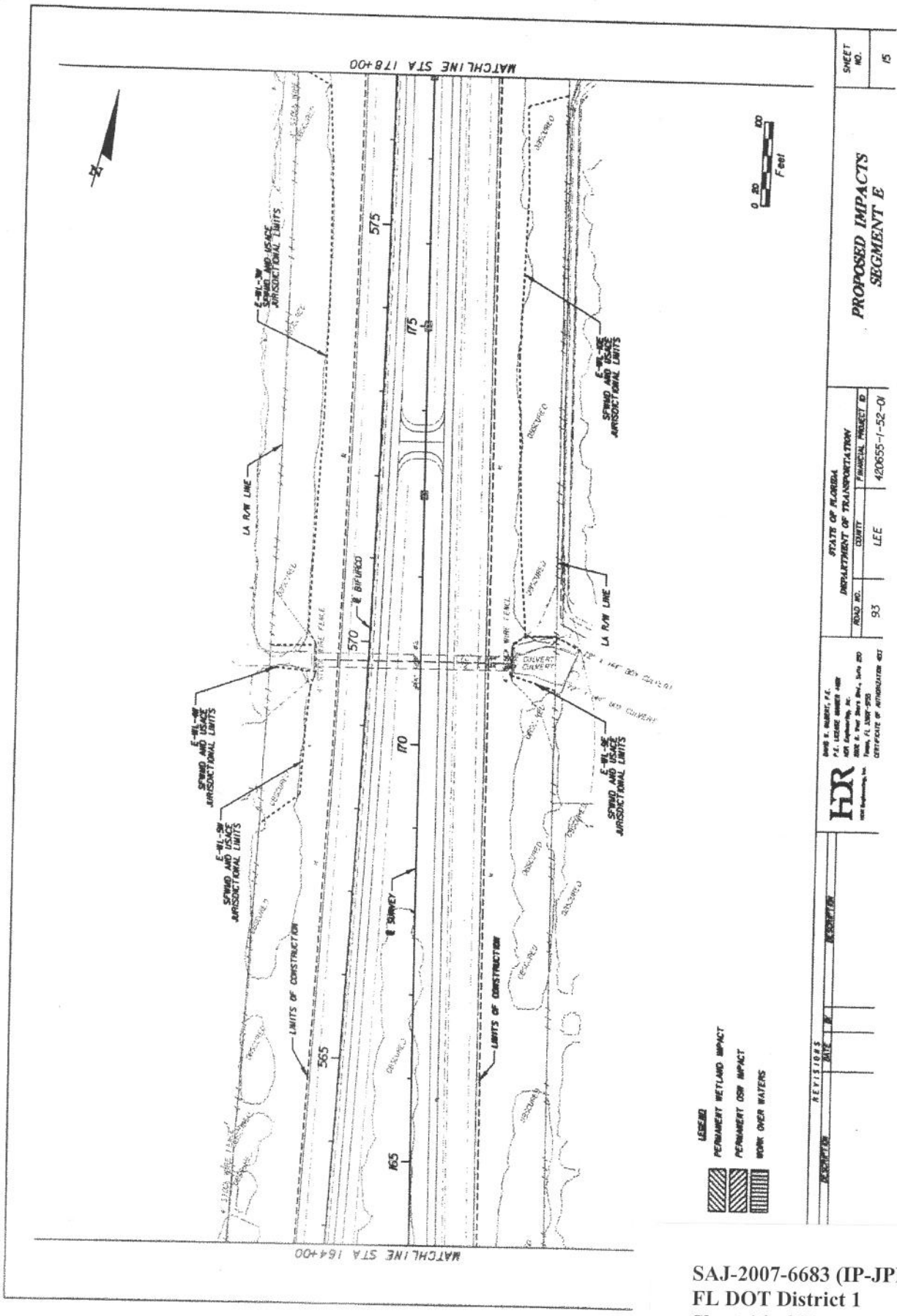
- LEGEND**
- PERMANENT WETLAND IMPACT
 - PERMANENT DRY IMPACT
 - WORK OVER WATERS

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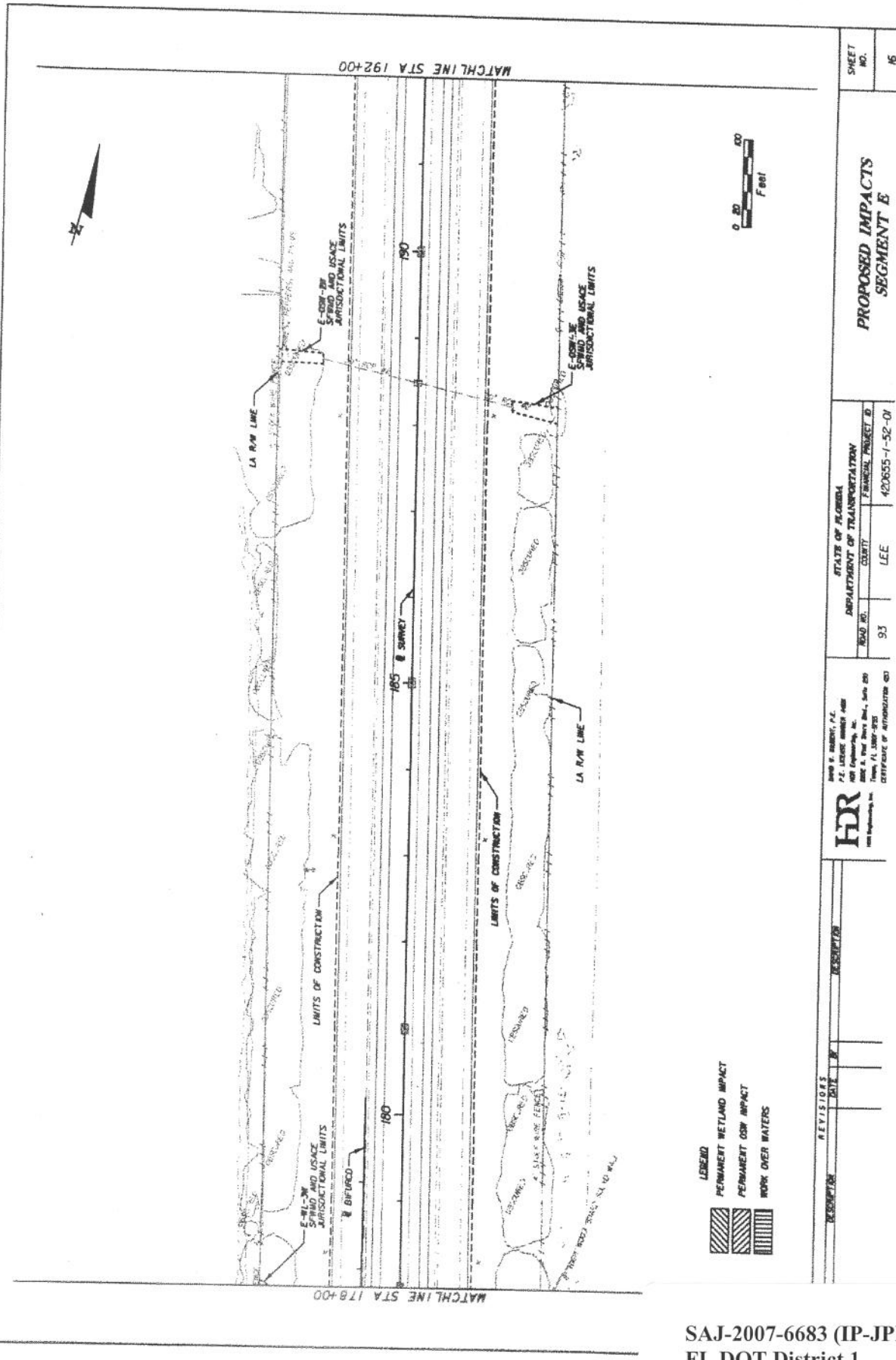
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COUNTY LEE		SHEET NO. 13	
ROAD NO. 93		PROJECT NAME PROPOSED IMPACTS SEGMENT E	
DATE JUN 23 2008		DRAWN BY J. J. JONES	
CHECKED BY J. J. JONES		APPROVED BY J. J. JONES	

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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION ROAD NO. 93 COUNTY LEE PROJECT ID 420655-1-52-01		SHEET NO. 15
H&R H&R ENGINEERING, P.C. 401 S. GULF BLVD., SUITE 200 TAMPA, FL 33602-2500 CERTIFICATE OF AUTHORIZATION 001		
REVISIONS NO. DATE DESCRIPTION		



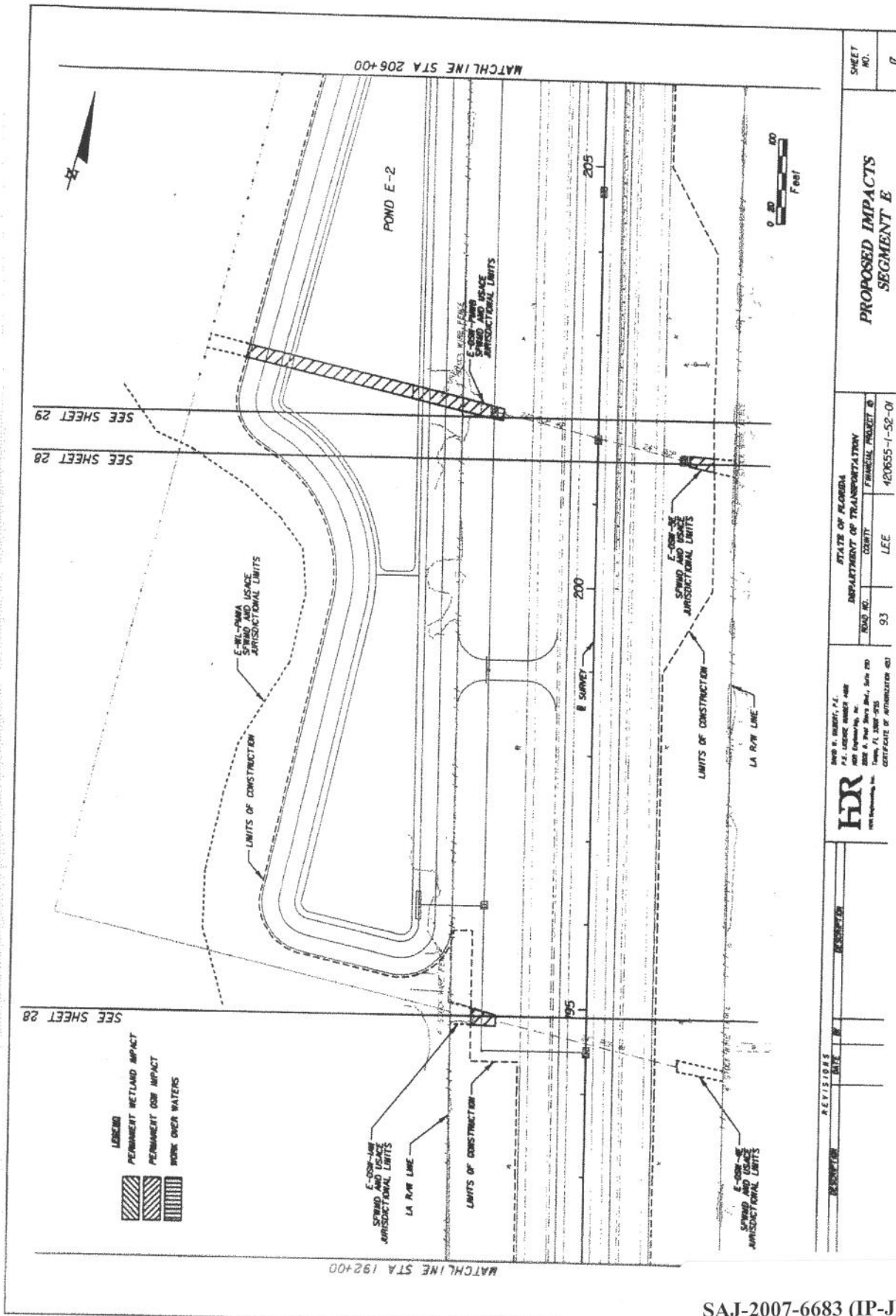
SHEET NO. 16

PROPOSED IMPACTS
SEGMENT E

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION
ROAD NO. 93
COUNTY LEE
PROJECT ID 420655-1-52-01

HR
Hatch, Ross & Associates, Inc.
P.E. LICENSE NUMBER 4408
4408 Engineering, Inc.
2000 A. Paul Street, Suite 200
Tampa, FL 33607-2002
CERTIFICATE OF REGISTRATION 003

REVISION	DATE	DESCRIPTION



SHEET NO. 17

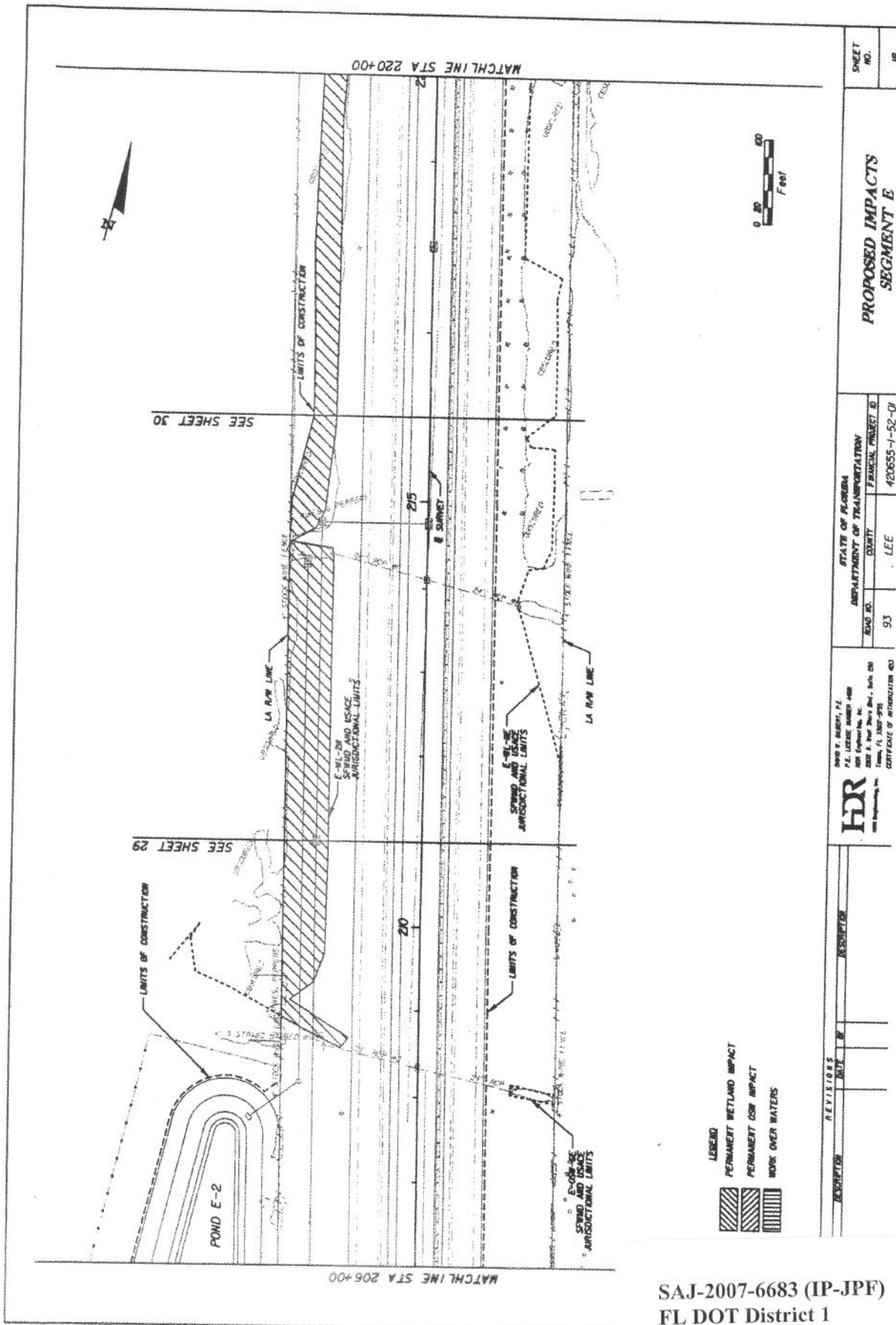
**PROPOSED IMPACTS
SEGMENT E**

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION
COUNTY: LEE
ROAD NO.: 93
PROJECT NO.: 420655-1-52-01

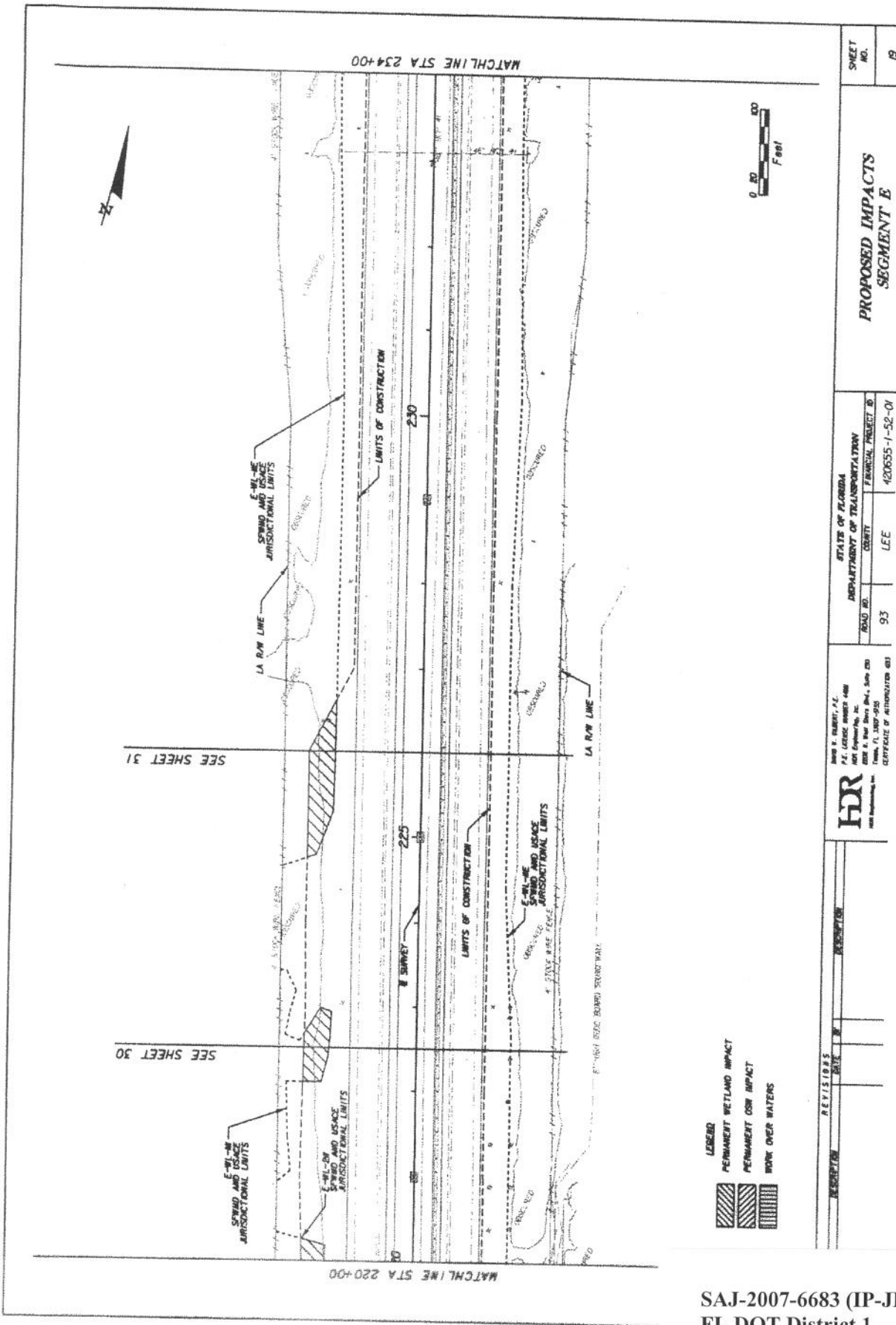
SAJ-2007-6683 (IP-JPF)
P.E. LUCAS, REGISTERED PROFESSIONAL ENGINEER
2008 A. Paul Davis Blvd., Suite 210
Tampa, FL 33607-5755
CERTIFICATE OF AUTHORIZATION 401



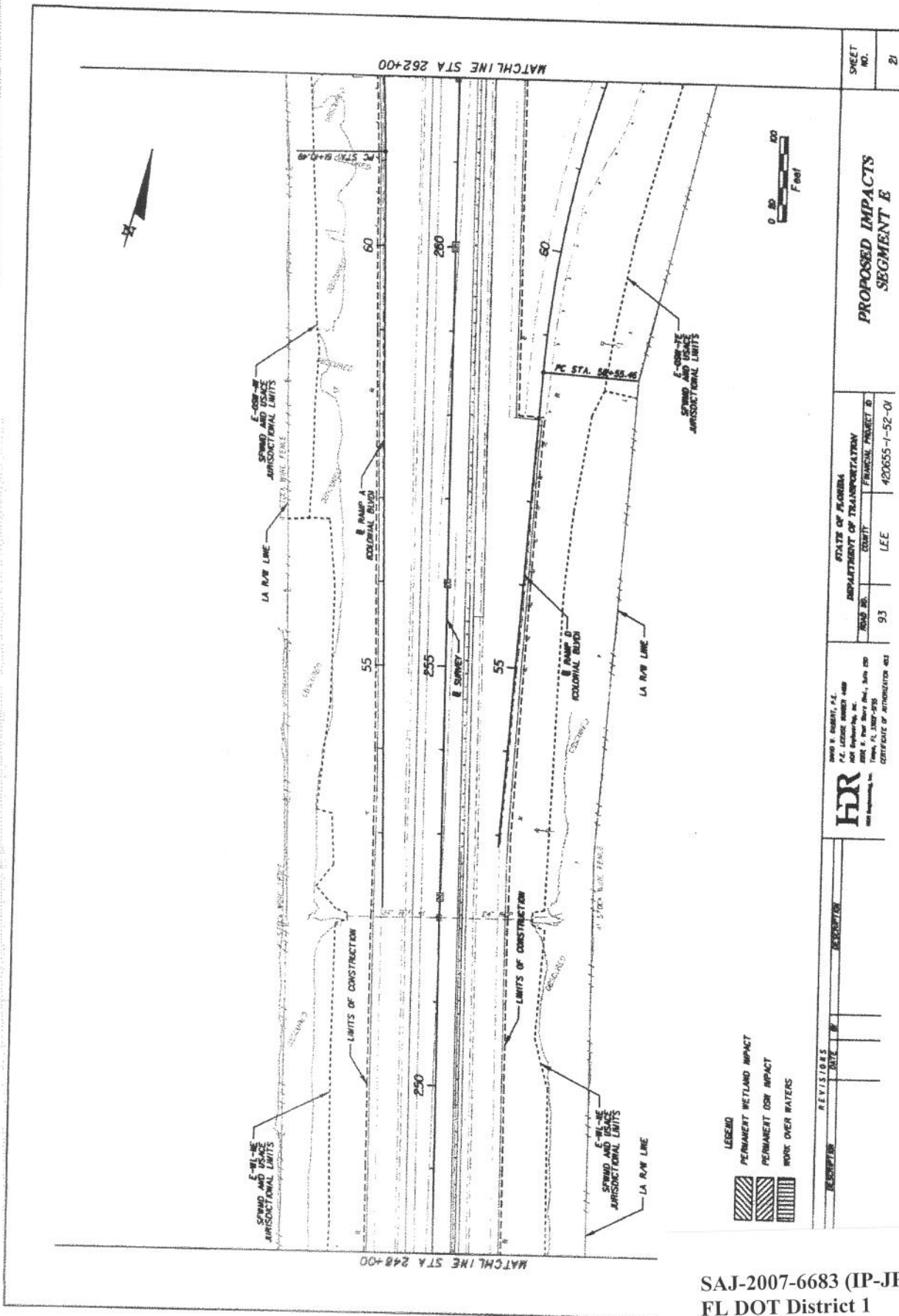
REVISION	DATE	DESCRIPTION



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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		PROJECT NO. 420655-1-52-01	
COUNTY LEE		FISCAL YEAR 03	
ROAD NO. 93		PROJECT NO. 420655-1-52-01	
DESIGNER: H&R ENGINEERING, INC. 1000 S. 10th Street, Suite 200 Tampa, FL 33607-9705 CERTIFICATE OF AUTHORIZATION 002		DATE: 06/23/08	



FORM #0157
Rev. 0895

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
ENVIRONMENTAL RESOURCE
PERMIT MODIFICATION NO. 36-03802-P
DATE ISSUED: JUNE 12, 2008**

PERMITTEE: FLORIDA DEPARTMENT OF TRANSPORTATION
(I-75 DANIELS PARKWAY TO COLONIAL BOULEVARD/SEGMENTS D AND E)
P O BOX 1249,
BARTOW, FL 33831-1249

ORIGINAL PERMIT ISSUED: MAY 16, 2000

ORIGINAL PROJECT DESCRIPTION: ORIGINAL PERMIT ISSUED AS A GENERAL PERMIT.

APPROVED MODIFICATION : CONSTRUCTION AND OPERATION OF A SURFACE WATER MANAGEMENT SYSTEM TO SERVE 405.13 ACRES OF A ROADWAY PROJECT KNOWN AS INTERSTATE 75 (I-75) FROM DANIELS PARKWAY TO COLONIAL BOULEVARD SEGMENTS D AND E WITH DISCHARGE INTO WATERS OF THE ESTERO RIVER VIA THE SIX MILE CYPRESS SLOUGH VIA I-75 ROADSIDE SWALES AND EXISTING CONVEYANCE SYSTEMS.

PROJECT LOCATION: LEE COUNTY, SECTION 34 TWP 44S RGE 25E
SECTION 3,10,15,22 TWP 45S RGE 25E

PERMIT DURATION: See Special Condition No.1. See attached Rule 40E-4.321, Florida Administrative Code.

This Permit Modification is approved pursuant to Application No. 071004-16, dated September 21, 2007. Permittee agrees to hold and save the South Florida Water Management District and its successors harmless from any and all damages, claims or liabilities which may arise by reason of the construction, operation, maintenance or use of any activities authorized by this Permit. This Permit is issued under the provisions of Chapter 373, Part IV Florida Statutes(F.S.), and the Operating Agreement Concerning Regulation Under Part IV, Chapter 373 F.S. between South Florida Water Management District and the Department of Environmental Protection. Issuance of this Permit constitutes certification of compliance with state water quality standards where necessary pursuant to Section 401, Public Law 92-500, 33 USC Section 1341, unless this Permit is issued pursuant to the net improvement provisions of Subsections 373.414(1)(b), F.S., or as otherwise stated herein.

This Permit Modification may be revoked, suspended, or modified at any time pursuant to the appropriate provisions of Chapter 373, F.S., and Sections 40E-4.351(1), (2), and (4), Florida Administrative Code (F.A.C.). This Permit Modification may be transferred pursuant to the appropriate provisions of Chapter 373, F.S., and Sections 40E-1.6107(1) and (2), and 40E-4.351(1), (2), and (4), F.A.C.

All specifications and special and limiting/general conditions attendant to the original Permit, unless specifically rescinded by this or previous modifications, remain in effect.

This Permit Modification shall be subject to the Environmental Resource Permit set forth in Rule 40E-4.381, F.A.C., unless waived or modified by the Governing Board. The Application, and Environmental Resource Permit Staff Review Summary of the Application, including all conditions, and all plans and specifications incorporated by reference, are a part of this Permit Modification. All activities authorized by this Permit Modification shall be implemented as set forth in the plans, specifications, and performance criteria as set forth and incorporated in the Environmental Resource Permit Staff Review Summary. Within 30 days after completion of construction of the permitting activity, the Permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual, pursuant to the appropriate provisions of Chapter 373, F.S. and Sections 40E-4.361 and 40E-4.381, F.A.C.

In the event the property is sold or otherwise conveyed, the Permittee will remain liable for compliance with this Permit until transfer is approved by the District pursuant to Rule 40E-1.6107, F.A.C.

SPECIAL AND GENERAL CONDITIONS ARE AS FOLLOWS:

SEE PAGES 2 - 4 OF 7 (21 SPECIAL CONDITIONS).

SEE PAGES 5 - 7 OF 7 (19 GENERAL CONDITIONS).

PERMIT MODIFICATION APPROVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT

ON _____ ORIGINAL SIGNED BY:
BY _____ ELIZABETH VEGUILLA
DEPUTY CLERK

SPECIAL CONDITIONS

1. The construction phase of this permit shall expire on June 12, 2013.
2. Operation of the surface water management system shall be the responsibility of FLORIDA DEPARTMENT OF TRANSPORTATION.
3. Discharge Facilities:

Basin: D-B, Structure: D-013

1-24" W X 16" H RECTANGULAR NOTCH weir with crest at elev. 21.7' NGVD 29.

1-3" dia. CIRCULAR ORIFICE with invert at elev. 21' NGVD 29.

Receiving body : Six Mile Cypress Slough via Interstate 75 roadside swale

Control elev : 21 feet NGVD 29. /21 FEET NGVD 29 DRY SEASON.

Basin: D-C, Structure: D-049

1-36" W X 17" H RECTANGULAR NOTCH weir with crest at elev. 21.55' NGVD 29.

1-3" dia. CIRCULAR ORIFICE with invert at elev. 20.5' NGVD 29.

Receiving body : Six Mile Cypress Slough via Interstate 75 roadside swale

Control elev : 20.5 feet NGVD 29. /20.5 FEET NGVD 29 DRY SEASON.

Basin: E-1A, Structure: E-115

1-8" WIDE RECTANGULAR NOTCH weir with crest at elev. 20.1' NGVD 29.

1-4" dia. CIRCULAR ORIFICE with invert at elev. 19.5' NGVD 29.

Receiving body : Six Mile Cypress Slough via Interstate 75 roadside swale

Control elev : 19.5 feet NGVD 29. /19.5 FEET NGVD 29 DRY SEASON.

Basin: E-1B, Structure: E-202

1-24" WIDE RECTANGULAR NOTCH weir with crest at elev. 20' NGVD 29.

1-3" dia. CIRCULAR ORIFICE with invert at elev. 19.5' NGVD 29.

Receiving body : Six Mile Cypress Slough via Interstate 75 roadside swale

Control elev : 19.5 feet NGVD 29. /19.5 FEET NGVD 29 DRY SEASON.

Basin: E-1C, Structure: E-303

1-26" WIDE RECTANGULAR NOTCH weir with crest at elev. 20.2' NGVD 29.

1-3" dia. CIRCULAR ORIFICE with invert at elev. 19.5' NGVD 29.

Receiving body : Six Mile Cypress Slough via Interstate 75 roadside swale

Control elev : 19.5 feet NGVD 29. /19.5 FEET NGVD 29 DRY SEASON.

Basin: E-2, Structure: E-416

1-36" WIDE RECTANGULAR NOTCH weir with crest at elev. 20.5' NGVD 29.

1-4" dia. CIRCULAR ORIFICE with invert at elev. 19.5' NGVD 29.

Receiving body : Six Mile Cypress Slough via Interstate 75 roadside swale

Control elev : 19.5 feet NGVD 29. /19.5 FEET NGVD 29 DRY SEASON.

Basin: E-D, Structure: E-507

1-8" WIDE RECTANGULAR NOTCH weir with crest at elev. 19.7' NGVD 29.

1-3" dia. CIRCULAR ORIFICE with invert at elev. 18.2' NGVD 29.

Receiving body : Six Mile Cypress Slough via Interstate 75 roadside swale

Control elev : 18.2 feet NGVD 29. /18.2 FEET NGVD 29 DRY SEASON.

4. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
5. Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not occur in the

receiving water.

6. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
7. Lake side slopes shall be no steeper than 4:1 (horizontal:vertical) to a depth of two feet below the control elevation. Side slopes shall be nurtured or planted from 2 feet below to 1 foot above control elevation to insure vegetative growth, unless shown on the plans.
8. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
9. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
10. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
11. This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse water resource related impacts will not be caused by the completed permit activity. Should any adverse impacts caused by the completed surface water management system occur, the District will require the permittee to provide appropriate mitigation to the District or other impacted party. The District will require the permittee to modify the surface water management system, if necessary, to eliminate the cause of the adverse impacts.
12. The permittee acknowledges, that pursuant to Rule 40E-4.101(2), F.A.C., a notice of Environmental Resource or Surface Water Management Permit may be recorded in the county public records. Pursuant to the specific language of the rule, this notice shall not be considered an encumbrance upon the property.
13. Prior to the commencement of construction, the permittee shall conduct a pre-construction meeting with field representatives, contractors and District staff. The purpose of the meeting will be to discuss construction methods and sequencing, including type and location of turbidity and erosion controls to be implemented during construction, mobilization and staging of contractor equipment, phasing of construction, methods of vegetation clearing, construction dewatering if required, ownership documentation for eminent domain authority, coordination with other entities on adjacent construction projects, wetland/buffer protection methods, endangered species protection with the permittee and contractors. The permittee shall contact District Environmental Resource Compliance staff from the Lower West Coast Service Center at (239) 338-2929 to schedule the pre-construction meeting.
14. Prior to the commencement of construction, the perimeter of preserved onsite wetlands and adjacent upland preservation areas/conservation areas shall be staked/roped/ silt fenced to prevent encroachment into the protected areas. Using Global Positioning System (GPS) technology, the perimeter of the preserve area(s) shall be identified for future reference. The data shall be differentially corrected and accurate to less than a meter (+/- one meter or better). Electronic copies of the GPS data shall be provided to the District's Environmental Resource Compliance staff. The permittee shall notify the District's Environmental Resource Compliance staff in writing upon completion of staking/roping/silt fencing and schedule an inspection of this work. The staking/roping/silt fencing shall be subject to District staff approval. The permittee shall modify the staking/roping/silt fencing if District staff determines that it is insufficient or is not in conformance with the intent of this permit. Staking/roping/silt fencing shall remain in place until all adjacent construction activities are complete.
15. Prior to commencement of construction and in accordance with the work schedule in Exhibit No. 3.7, the permittee shall submit documentation from the Florida Department of Environmental Protection that 5.59 freshwater herbaceous credits have been deducted from the ledger for Corkscrew Regional Mitigation Bank and documentation from Big Cypress Mitigation Bank that 2.34 credits (1.95 freshwater forested and .39 freshwater herbaceous credits) have been deducted from the ledger of Big Cypress Mitigation Bank.

16. Activities associated with the implementation of the mitigation, monitoring and maintenance plan(s) shall be completed in accordance with the work schedule attached as Exhibit No. 3.7. Any deviation from these time frames will require prior approval from the District's Environmental Resource Compliance staff. Such requests must be made in writing and shall include (1) reason for the change, (2) proposed start/finish and/or completion dates; and (3) progress report on the status of the project development or mitigation effort.
17. Endangered species, threatened species and/or species of special concern have been observed onsite and/or the project contains suitable habitat for these species. It shall be the permittee's responsibility to coordinate with the Florida Fish and Wildlife Conservation Commission and/or the U.S. Fish and Wildlife Service for appropriate guidance, recommendations and/or necessary permits to avoid impacts to listed species.
18. The permittee shall comply with the provisions of the fox squirrel habitat management plan approved for the project site in accordance with Exhibit No. 3.6. Prior to initiating construction activities, the site shall be surveyed for the presence of active Big Cypress fox squirrel nests. A 125 foot radius undisturbed buffer must be maintained around all active nests. Following nesting activities, the nesting tree may be removed following coordination with the Florida Fish and Wildlife Conservation Commission and obtaining all required permits.

Any modifications to this program shall require prior written approval from District staff.

19. The exhibits and special conditions in this permit apply only to this application. They do not supersede or delete any requirements for other applications covered in Permit No. 36-03802-P unless otherwise specified herein.
20. Minimum road crown elevation:
Basin: D-B - 24.80 feet NGVD 29. Basin: D-C - 24.90 feet NGVD 29.
Basin: E-1A - 24.60 feet NGVD 29. Basin: E-1B - 24.60 feet NGVD 29.
Basin: E-1C - 24.40 feet NGVD 29. Basin: E-2 - 24.40 feet NGVD 29.
Basin: E-D - 23.40 feet NGVD 29.
21. Reference is made to Exhibit Nos. 2.1, 2.7, 2.38 through 2.88, 2.93 through 2.104, 2.269 through 2.281, dated on October 2, 2007, and Exhibit Nos. 2.2 through 2.6, 2.89 through 2.92, 2.105 and 2.106, dated on December 6, 2007, all signed and sealed by Alphonse J. Stewart, P.E. of HDR Engineering, Inc. and Exhibit Nos. 2.0, 2.8 through 2.37, 2.107 through 2.268, all signed, sealed, and dated by David W. Gilbert, P.E. on October 2, 2007 of HDR Engineering, Inc. These drawings have been included in this permit by reference (please see permit file).

GENERAL CONDITIONS

1. All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and Part IV, Chapter 373, F.S.
2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
3. Activities approved by this permit shall be conducted in a manner which does not cause violations of State water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation of State water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), incorporated by reference in Rule 40E-4.091, F.A.C. unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
4. The permittee shall notify the District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource Permit Construction Commencement Notice Form Number 0960 indicating the actual start date and the expected construction completion date.
5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an annual status report form. Status report forms shall be submitted the following June of each year.
6. Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a professional engineer or other individual authorized by law, utilizing the supplied Environmental Resource/Surface Water Management Permit Construction Completion/Certification Form Number 0881A, or Environmental Resource/Surface Water Management Permit Construction Completion Certification - For Projects Permitted prior to October 3, 1995 Form No. 0881B, incorporated by reference in Rule 40E-1.659, F.A.C. The statement of completion and certification shall be based on onsite observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the District that the system is ready for inspection. Additionally, if deviation from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawings. All surveyed dimensions and elevations shall be certified by a registered surveyor.
7. The operation phase of this permit shall not become effective: until the permittee has complied with the requirements of condition (6) above, and submitted a request for conversion of Environmental Resource Permit from Construction Phase to Operation Phase, Form No. 0920; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the District in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 40E-1.6107, F.A.C., the permittee

shall be liable for compliance with the terms of the permit.

8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.
9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the District along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit applications within the South Florida Water Management District, prior to lot or units sales or prior to the completion of the system, whichever comes first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State, county or municipal entities. Final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.
10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the District in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.
11. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C..
12. The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the State, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereign lands or other state-owned lands.
13. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(3), F.A.C., also known as the "No Notice" Rule.
14. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by the permit.
15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding, unless a specific condition of this permit or a formal determination under Section 373.421(2), F.S., provides otherwise.
16. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 40E-1.6105 and 40E-1.6107, F.A.C.. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.
17. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.

18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate District service center.
19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

ENVIRONMENTAL RESOURCE PERMITS CHAPTER 40E-4 (01/07)

40E-4.321 Duration of Permits.

(1) Unless revoked or otherwise modified the duration of an environmental resource permit issued under this chapter or Chapter 40E-40, F.A.C., is as follows:

(a) For a conceptual approval, two years from the date of issuance or the date specified as a condition of the permit, unless within that period an application for an individual or standard general permit is filed for any portion of the project. If an application for an environmental resource permit is filed, then the conceptual approval remains valid until final action is taken on the environmental resource permit application. If the application is granted, then the conceptual approval is valid for an additional two years from the date of issuance of the permit. Conceptual approvals which have no individual or standard general environmental resource permit applications filed for a period of two years shall expire automatically at the end of the two year period.

(b) For a conceptual approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive plan amendment, the duration of the conceptual approval shall be two years from whichever one of the following occurs at the latest date:

1. The effective date of the local government's comprehensive plan amendment,
2. The effective date of the local government development order,
3. The date on which the District issues the conceptual approval, or 4. The date on which the District issues a final order pertaining to the resolution of any Section 120.57, F.S., administrative proceeding or other legal appeals.

(c) For an individual or standard general environmental resource permit, the construction phase authorizing construction, removal, alteration or abandonment of a system shall expire five years from the date of issuance or such amount of time as made a condition of the permit.

(d) For an individual or standard general environmental resource permit, the operational phase of the permit is perpetual for operation and maintenance.

(e) For a noticed general permit issued pursuant to Chapter 40E-400, F.A.C., five years from the date the notice of intent to use the permit is provided to the District.

(2)(a) Unless prescribed by special permit condition, permits expire automatically according to the timeframes indicated in this rule. If application for extension is made by electronic mail at the District's e-Permitting website or in writing pursuant to subsection (3), the permit shall remain in full force and effect until:

1. The Governing Board takes action on an application for extension of an individual permit, or
2. Staff takes action on an application for extension of a standard general permit.

(b) Installation of the project outfall structure shall not constitute a vesting of the permit.

(3) The permit extension shall be issued provided that a permittee files a written request with the District showing good cause prior to the expiration of the permit. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Substantial modifications to individual or standard general environmental resource permits issued pursuant to a permit application extend the duration of the permit for three years from the date of issuance of the modification. Individual or standard general environmental resource permit modifications do not extend the duration of a conceptual approval.

(6) Permit modifications issued pursuant to paragraph 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of the permit.

(7) Failure to complete construction or alteration of the surface water management system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization in order to continue construction unless a permit extension is granted.

Specific Authority 373.044, 373.113, 668.003, 668.004, 668.50 FS. Law Implemented 373.413, 373.416, 373.419, 373.426, 668.003, 668.004, 668.50 FS. History-New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86, 4-20-94, 10-3-95, 5-28-00, 10-1-06.

STANDARD PROTECTION MEASURES FOR THE EASTERN INDIGO SNAKE

1. An eastern indigo snake protection/education plan shall be developed by the applicant or requestor for all construction personnel to follow. The plan shall be provided to the Service for review and approval at least 30 days prior to any clearing activities. The educational materials for the plan may consist of a combination of posters, videos, pamphlets, and lectures (e.g., an observer trained to identify eastern indigo snakes could use the protection/education plan to instruct construction personnel before any clearing activities occur). Informational signs should be posted throughout the construction site and contain the following information:
 - a. a description of the eastern indigo snake, its habits, and protection under Federal Law;
 - b. instructions not to injure, harm, harass or kill this species;
 - c. directions to cease clearing activities and allow the eastern indigo snake sufficient time to move away from the site on its own before resuming clearing; and,
 - d. telephone numbers of pertinent agencies to be contacted if a dead eastern indigo snake is encountered. The dead specimen should be thoroughly soaked in water, then frozen.
2. Only an individual who has been either authorized by a section 10(a)(1)(A) permit issued by the Service, or designated as an agent of the State of Florida by the Florida Fish and Wildlife Conservation Commission for such activities, is permitted to come in contact with or relocate an eastern indigo snake.
3. If necessary, eastern indigo snakes shall be held in captivity only long enough to transport them to a release site; at no time shall two snakes be kept in the same container during transportation.
4. An eastern indigo snake monitoring report must be submitted to the appropriate Florida Field Office within 60 days of the conclusion of clearing phases. The report should be submitted whether or not eastern indigo snakes are observed. The report should contain the following information:
 - a. any sightings of eastern indigo snakes;
 - b. summaries of any relocated snakes if relocation was approved for the project (e.g., locations of where and when they were found and relocated);
 - c. other obligations required by the Florida Fish and Wildlife Conservation Commission, as stipulated in the permit.

JUN 03 2008

CESAJ-RD-ST SAJ-2007-6683 (IP-JPF)
MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Environmental Assessment and the Statement of Findings for the Above-Numbered Permit Application

1. **APPLICANT:** Florida Department of Transportation District One
801 North Broadway Avenue
Bartow, FL 33830

2. **LOCATION, EXISTING SITE CONDITIONS, PROJECT DESCRIPTION, AND CHANGES TO PROJECT:**

a. Location: The project site involves proposed impacts to Six Mile Cypress Slough and unnamed waters of the United States located along I-75 from south of Daniels Parkway to south of Colonial Boulevard, in Section 34, Township 44 South, and Range 25 East, and Sections 3, 10, 15, and 22, Township 45 South, Range 25 East, in Lee County, Florida. The project is within the Estero Bay watershed.

Latitude 26.576052, Longitude -81.796591

b. Existing Site Conditions: The project area measures 399 acres, including approximately 22.11 acres of surface waters and 34.28 acres of wetlands within the project boundaries. The majority of the wetlands have been impacted to at least some degree by adjacent development, hydrology changes, and infestation by exotic species such as *Melaleuca*.

c. Project Description: The applicant proposes to permanently impact approximately 0.46 acre of surface waters and 5.01 acres of wetlands to construct two additional travel lanes along an approximately 5-mile section of I-75, with attendant stormwater management facilities. The applicant states that the project design reflects all practicable measures for avoidance and minimization of impacts, including for the siting of the stormwater management system. As mitigation for the project impacts, the applicant proposes to purchase credits at an appropriate mitigation bank. The project is referenced by FDOT as FPID Number 420655-1-52-01, and as Segments D & E.

d. Changes to Project: The applicant specified that they will purchase 2.34 credits (1.95 forested, 0.39 herbaceous) from the Big Cypress Mitigation Bank. Otherwise, the final project description is the same as the initial project description.

3. PROJECT PURPOSE:

- a. **Basic:** To widen a section of state road from four lanes to six lanes to provide improved transportation capacity
- b. **Overall:** To widen an approximately 5-mile long segment of I-75 in Lee County from four lanes to six lanes to meet a need for additional transportation capacity in that area and adjacent areas

4. Scope of Analysis: The proposed project is a public action to widen an existing road in Lee County, Florida. Federal control and responsibility over the project site is determined to exist under Section 404 of the Clean Water because of the proposed discharge of fill into jurisdictional wetlands. But for the fill material, the project could not be completed; therefore, the Corps of Engineers has determined the scope of analysis to be the entire project site.

5. Statutory Authority: Section 404 of the Clean Water Act (33 U.S.C. 1344).

6. OTHER FEDERAL, STATE, AND LOCAL AUTHORIZATIONS OBTAINED OR REQUIRED AND PENDING:

a. **State Water Quality Certification (WQC):** The South Florida Water Management District (SFWMD) has not yet issued an Environmental Resource Individual Construction Permit (ERP) for the project. When issued, the SFWMD permit will constitute compliance with water quality standards under Section 401 of the Clean Water Act, 33 U.S.C. 1341.

b. **Coastal Zone Management (CZM) consistency/permit:** There is no evidence or indication from the State of Florida that the project is inconsistent with the Florida CZM. Issuance of the SFWMD permit will indicate that the project complies with the CZM Act.

c. **Other Authorizations:** None known.

7. DATE OF PUBLIC NOTICE AND SUMMARY OF COMMENTS:

a. **Application History:** An application was received at the Tampa Regulatory Office on 30 October 2007 and was considered to be complete. A public notice was published on 31 December 2007 and was sent to all adjacent property owners including State and Federal agencies. All comments received on this application have been reviewed and are summarized below:

(1) U.S. Environmental Protection Agency (EPA) Comments: No comments were received from the EPA during the public notice comment period.

(2) U.S. Fish and Wildlife Service (FWS) Comments: In a letter dated 31 January 2008, the FWS stated that they concur with the Corps determination of "may affect, but is not likely to adversely affect" for the Florida panther, eastern indigo snake and wood stork.

(3) National Marine Fisheries Service (NMFS) Comments: No comments were received from the NMFS during the public notice comment period.

(4) State Historic Preservation Officer (SHPO) Comments: No comments were received from the SHPO during the public notice comment period.

(5) State and Local Agencies Comments: Not applicable.

(6) Organization Comments: Not applicable.

(7) Individual Comments: Not applicable.

b. Response to the comments: No coordination of the comments was necessary.

c. Additional Coordination with Agencies and the Applicant: No other coordination was necessary.

8. ALTERNATIVES:

a. Avoidance (No action, uplands, availability of other sites): The basic project purpose is to widen a road. Roads do not have to be located in a water of the United States to fulfill the basic purpose of the project. Therefore, the proposed project is not water dependent. Examples of water dependent projects include, but are not limited to, dams, marinas, mooring facilities, and docks.

The project would involve expanding an existing four-lane roadway into a six-lane roadway to meet a need for additional transportation capacity. Designing and constructing a new road elsewhere is not a viable option to the applicant. A new road would impact residential areas and potentially cost considerably more than widening an existing roadway. The construction of a new road in this part of Lee County would also result in greater impacts to wetlands than widening an existing road; therefore, there are no other sites that would be less environmentally damaging.

b. Minimization (modified project designs, etc.): The road would be widened to accommodate existing and projected traffic. To minimize impacts the design plans

propose to utilize areas within the existing right-of-way and median for stormwater treatment. The applicant also proposes to use silt screens, turbidity barriers, and other erosion control and discharge prevention measures to minimize impacts to remaining wetlands and wetland areas. The Corps feels the applicant has minimized impacts to the maximum practicable extent.

c. Project As Proposed (Outline impacts of project as proposed): To construct the project, the applicant is requesting to permanently impact approximately 5.47 acres of surface waters.

d. Compensatory Mitigation (wetland enhancement, creation, etc.): To offset 5.47 acres of Corps jurisdictional impacts, the applicant proposes to purchase credits at a federally-approved mitigation bank. The linear nature of the project does not provide many opportunities for on-site compensatory mitigation because the impacted wetlands are located in the median of or at the outside edges of an existing road.

The applicant proposes to purchase 1.95 forested credits and 0.39 herbaceous credits from the Big Cypress Mitigation Bank (SAJ-1997-6400). The Corps reviewed the applicant's functional analysis for the project impacts and agrees that the proposed mitigation would adequately replace both direct and secondary functions lost as a result of the project.

9. Evaluation of the 404(b)(1) guidelines: The Corps reviewed the proposed project in accordance with the 404 (b)(1) Guidelines. The review demonstrates that the Corps analyzed all of the alternatives and that the proposed alternative is the least environmentally damaging and practicable alternative considering expense, existing technology, and logistics. The project would not cause or contribute to violations of State Water quality standards, jeopardize the existence of any endangered species or affect a marine sanctuary. The Corps does not expect significant degradation and the applicant has taken all available practicable steps to minimize impacts.

Findings: The proposed site for the discharge of dredged or fill material complies with the Section 404(b)(1) guidelines with the inclusion of the following conditions:

- **Erosion Control:** Prior to the initiation of any work authorized by this permit, the Permittee shall install erosion control measures along the perimeter of all work areas to prevent the displacement of fill material. Immediately after completion of the final grading of the land surface, all slopes, land surfaces, and filled areas adjacent to wetlands shall be stabilized using sod, degradable mats, or a combination of similar stabilizing materials to prevent erosion. The erosion control measures shall remain in place and be maintained until all authorized work has been completed and the site has been stabilized.

- **Mitigation Credit Purchase:** Within 30 days from the date of initiating the authorized work or 12 months from the effective date of this permit, whichever first occurs, the Permittee shall provide verification to the Corps that 2.34 federal mitigation bank credits (1.95 forested and 0.39 herbaceous) have been purchased from the Big Cypress Mitigation Bank (SAJ-1997-6400). The required verification shall reference this project's permit number (SAJ-2007-6683).

10. PUBLIC INTEREST REVIEW:

a. All public interest factors have been reviewed: The Corps reviewed all of the public interest factors including, but not limited to, the effects the work might have on conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, land use, navigation, shore erosion and accretion, recreation, water quality, safety, and consideration of property ownership. The Corps has determined that the proposed work will not adversely affect any of the public interest factors. Both cumulative and secondary impacts on the public interest were considered.

b. Public/private benefits of the proposed work: The proposed project is a public action that would facilitate the flow of existing traffic congestion in Lee County, Florida. The public benefits associated with this project would include providing increased capacity on a congested road.

c. Practicability of alternative locations and methods to address unresolved conflicts: No alternative locations or methods were identified that would meet the project's objective.

d. Extent and permanence of effects of proposed work on public and private uses: Detrimental impacts associated with the proposed project would include the loss of functions of 5.47 acres of wetland and surface waters located alongside of an existing road. Detrimental impacts would be offset by the purchase of credits from a federally-approved mitigation bank and by the creation of a new stormwater management system.

e. Threatened or endangered species: The Corps made the determination of "may affect, but is not likely to adversely affect" to the FWS for the federally listed Florida panther, eastern indigo snake, and wood stork. The FWS responded via letter dated 31 January 2008 and stated that they concurred with that determination for all three species. In the case of the indigo snake, the concurrence was based on the applicant's willingness to comply with *Standard Eastern Indigo Snake Protection Measures*. In order to minimize potential impacts to the Eastern Indigo Snake, the following special condition should be incorporated into the DA permit, if issued:

- The permittee agrees to implement the attached 'Standard Protection Measures for the Eastern Indigo Snake' (as revised July 27, 1999) to minimize the potential for impacts to the eastern indigo snake.

f. Corps wetland policy: The proposed project includes direct impacts to 5.47 acres of wetlands and surface waters, and the purchase of 2.34 credits from a federally-approved mitigation bank. The applicant has avoided higher quality wetlands and located the project in previously disturbed surface waters and uplands. The mitigation is directly related to the impacts of the proposal and is appropriate to the scope and degree of those impacts.

g. Cumulative and secondary impacts: The project is located within a 1,550 square mile area that was studied by the Southwest Florida Environmental Impact Statement (SWFEIS). Several years ago, the Corps Regulatory Division became increasingly concerned whether the incremental (permit-by-permit) reviews were adequately addressing cumulative and secondary impacts. Recurring issues in those reviews have been loss of spatial habitat (particularly for endangered species), changes in water quality and flows/timing on downstream water bodies, and appropriate amount and location of wetland mitigation. These concerns were heightened in the rapidly growing Lee and Collier Counties. The Corps then hosted an Alternative Development Group (ADG) composed of community and agency representatives. The membership was balanced to represent the range of views of the community and to provide a mix of expertise for the development of alternatives. Through ten professionally facilitated meetings, the ADG defined 12 evaluation issues, agreed to 62 measurement factors, and then created and evaluated 28 alternatives. The work of the ADG was used to prepare the Final Draft SWEIS that was released in August 2000. The Final Draft EIS document essentially has four parts. First, it describes the existing conditions such as wildlife habitat and water quality trends. Second, it presents five maps depicting what the landscape may or may not look like in 20+/- years. Third, the document compares the environmental and other effects between the maps for factors such as area of wetland fill, effect on various species of wildlife, and change in water quality. Fourth, it provides Permit Review Criteria that lists special issues correlated to geographic location. The EIS presents five alternatives for the future, each including a map that delineate areas of "development", "agriculture", and "preserves" based on various ideas presented to the Corps of Engineers how the land in the study area may be or should be distributed at the end of 20+ years. These maps are used to prepare estimates of acres of wetland fill, area of habitat lost, change in water quality, etc. The EIS recognizes that these maps represent the potential result of many individual decisions by the Corps of Engineers, landowners, Counties, and others. In August of 2003, the Record of Decision (ROD) for the EIS was issued. The ROD describes four tasks that will be performed by Corps project managers during their reviews of applications. These tasks are: (1) screen the incoming applications project locations against a set of maps to identify potential issues; (2) use site specific information provided as part of the application process to determine whether the issue is relevant to the project at hand; (3)

if relevant, use the information accompanying the maps as well as information provided by the applicant or others to assess the effect, if any; and, (4) compare the project location to the predicted futures presented by the EIS. The tasks are designed to use the information in the EIS as a supplement to the normal permit-by-permit review process. The purposes of these supplemental tasks are to increase assurance that important natural resource issues are identified early in the review process and to provide information on the possible project effects on an issue in the context of potential future cumulative effects. The maps do not represent permissible/non-permissible areas. The five alternative maps are identified as ensemble Q, R, S, T, and U. Ensemble R represents the status quo or existing comprehensive land plan. Ensemble Q provides a larger acreage of development than the comprehensive plan (R). Ensemble S provides greater emphasis on listed species and their habitat. Ensemble T seeks to increase the area of preserves. Ensemble U proposes the largest areas of preserve. The project has been reviewed in accordance with all ensembles and is consistent with how the ADG perceived that the land may be distributed at the end of 20+ years as it was designated as development.

The project was also compared to the Permit Review Criteria that lists special issues correlated to geographic location. The special issues identified for the project are: habitat fragmentation, marshes, and water quality. The proposed project would not have a negative impact on habitat fragmentation because the project site is within the right-of-way of an existing roadway. The project would not have a negative impact on marshes because the applicant proposes to provide compensatory mitigation by purchasing credits from a federally-approved mitigation bank whose service area includes the project area. To address water quality concerns the applicant is conducting additional water quality analysis, above the 401 water quality certification. The pollutant loading calculations will be conducted using the Evaluation of Alternative Stormwater Regulations for Southwest Florida, dated August 2003, and will be reviewed by the South Florida Water Management District (SFWMD). The expected outcome is that the SFWMD will find that the calculations demonstrate that the permitted surface water management system would reduce the post-development loadings of storm water nutrients to levels equal to or less than the loadings generated under pre-development conditions. If this is the case, then the proposed project would not have a negative impact on water quality.

As a result of the above analysis, the proposed project should result in minimal cumulative and secondary impacts. This project would not result in adverse impacts related to loss of wetland functions nor loss of wildlife habitat. Every new proposed project, that involves impacts with Corps jurisdiction, would receive at least the same level of review to ensure the avoidance and minimization of impacts and the adequate compensation for those unavoidable impacts.

h. Public Interest Special Conditions: In order to monitor the progress of the proposed construction and to ensure that the project has been constructed according to

plans, the following special condition should be included in this permit, should the permit be issued:

- **Commencement Notification:** Within 10 days from the date of initiating the authorized work, the Permittee shall provide to the Corps a written notification of the date of commencement of work authorized by this permit.
- **As-Builts:** Within 60 days of completion of the authorized work or at the expiration of the construction window of this permit, whichever occurs first, the Permittee shall submit as-built drawings of the authorized work and a completed As-Built Certification Form to the Corps. The drawings shall be signed and sealed by a registered professional engineer and include the following:
 - a. A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings (8½-inch by 11-inch). The drawing should show all "earth disturbance," including wetland impacts, water management structures, and any on-site mitigation areas.
 - b. List any deviations between the work authorized by this permit and the work as constructed. In the event that the completed work deviates, in any manner, from the authorized work, describe on the As-Built Certification Form the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed. Please note that the depiction and/or description of any deviations on the drawings and/or As-Built Certification Form does not constitute approval of any deviations by the U.S. Army Corps of Engineers.
 - c. The Department of the Army Permit number.
 - d. Include pre- and post-construction aerial photographs of the project site, if available.

11. ESSENTIAL FISHERIES HABITAT (EFH): The project would not adversely affect Essential Fish Habitat.

12. PUBLIC HEARING EVALUATION: There were no requests for public hearing received during the Public Notice comment period, therefore no public hearings were held.

13. CORPS ANALYSIS OF COMMENTS AND RESPONSES: No comments requiring Corps analysis were received during review of this permit application.

14. DETERMINATIONS:

CESAJ-RD-ST [SAJ-2007-6683 (IP-JPF)]

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings for Above-Numbered Permit Application

a. Finding of No Significant Impact (FONSI): Having reviewed the information provided by the applicant and all interested parties and an assessment of the environmental impacts, I find that this permit action will not have a significant impact on the quality of the human environment. Therefore, an Environmental Impact Statement will not be required.

b. Compliance with 404(b)(1) Guidelines: Having completed the evaluation in paragraph 9 above, I have determined that the proposed discharge complies with the 404(b)(1) guidelines.

c. Section 176(c) of the Clean Air Act General Conformity Rule Review: The proposed permit action has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined that the activities proposed under this permit will not exceed de minimis levels of direct or indirect emissions of a criteria pollutant or its precursors and are exempted by 40 CFR Part 93.153. Any later indirect emissions are generally not within the Corps' continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons a conformity determination is not required for this permit action.

d. Public Hearing Request: There were no requests for public hearing received during the Public Notice comment period, therefore no public hearings were held.

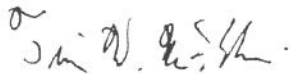
e. Public Interest Determination: I find that issuance of a Department of the Army permit is not contrary to the public interest.

PREPARED BY:



JOHN P. FELLOWS
Project Manager
Tampa Regulatory Office

REVIEWED BY:



TUNIS W. MCELWAIN
Chief, Fort Myers Section

APPROVED BY:



PAUL L. GROSSKRUGER
Colonel, Corps of Engineers
Commanding